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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,619	07/28/2003	William Grant Grovenburg	10030630-1	4323

22878 7590 08/05/2009

AGILENT TECHNOLOGIES INC.

INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.

MS BLDG. E P.O. BOX 7599

LOVELAND, CO 80537

EXAMINER

YUEN, KAN

ART UNIT

PAPER NUMBER

2416

NOTIFICATION DATE

DELIVERY MODE

08/05/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

Office Action Summary

Application No.

10/627,619

Applicant(s)

GROVENBURG, WILLIAM GRANT

Examiner

KAN YUEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-9,11,12,14,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,9 and 12 is/are rejected.
- 7) ☒ Claim(s) 3,6-8,11,14,17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments filed on 6/11/2009 have been fully considered but they are not persuasive.
2. In the remark, the applicant argued that having Bearden send telephone numbers from its testing server 104 to its endpoint devices 102 would not provide real-time and full time monitoring capabilities, the Examiner respectfully disagrees and will further explain the motivation.
3. Bearden disclosed a testing server 104 for transmitting command to telephony endpoint devices 102. One of the telephony endpoint devices 102 may synthesize (analyze) a call based on the command. However, Bearden does not disclose the feature wherein the command being a telephone number. Kung from the same or similar fields of endeavor disclosed the monitor 101 is enabled to perform surveillance of the target telephone 111, in response to a security code and target telephone number entered which is reviewed and approved by the IP-AMCP 125. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to replace the command with a telephone number. The motivation for using the feature being that by monitoring a call based on the received telephone number would allow the monitoring system to instantly identify the sole target associated with the telephone number without having the monitoring system to further process the command to determine which target(s) to monitor. Therefore the monitoring system would be able to provide instant (real-time) call monitoring capability upon receiving a target

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telephone number. Since the processing time is greatly reduced, therefore it also provides full time monitoring for each subsequent target.

Claim Objections

4. Claims 3, 6-8, 1, 14, 17 and 18 are objected to because of the following informalities:
 5. In claim 7, lines 8 and 13, the terms "to try" and "trying to" do not considered as a positive limitation. Applicant is suggested to remove the terms. Similar problem exists in claim 3, 11 and 17. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been

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obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bearden et al. (Pub No.: 2004/0062204), in view of Kung et al. (Pat No.: 6381220).

For claim 1, Bearden et al. disclosed the method of transmitting a respective telephone number from a network troubleshooting center (NTC) (Bearden et al. fig. 1, Testing Server 104) to a plurality of network analyzers (NAs) (Bearden et al. fig. 1, endpoint devices 102) monitoring communication lines through which Voice-over-Internet Protocol (VoIP) data streams are transmitted (Bearden et al. paragraphs 0032-0040, 0051). The devices 102 respond to commands or requests from the testing server 104 to participate in test calls for the purpose of VOIP monitoring and analysis in system 100, wherein the system comprises an internet network 106; and

after receiving the telephone number, collecting quality of service data by the NAs for data streams associated with a telephone call having the telephone number as a source or destination and transmitted through the communication lines, and providing quality of service information by the NAs to the NTC based on the collected quality of service data (Bearden et al. paragraphs 0032). After receiving requests from testing server 104, the endpoints 102 may synthesize a call, measure QoS parameters such as jitter, loss and delay associated with the call, and report the results back to the testing server 104.

However, Bearden et al. did not explicitly disclose the feature of transmitting information indicating a respective telephone number.

Kung et al. from the same or similar fields of endeavor disclosed the feature of transmitting information indicating a respective telephone number (Kung et al. see column 2, lines 19-45, figs. 1-2). The monitor 101 is enabled to perform surveillance of the target telephone 111, in response to a security code and target telephone number entered which is reviewed and approved by the IP-AMCP 125. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the feature as taught by Kung et al. in the network of Bearden et al. The motivation for using the feature as taught by Kung et al. in the network of Bearden et al. being that it provides real-time and full time monitoring capabilities.

Regarding claims 4, 12 Bearden et al. disclosed the feature wherein the telephone call is based on Session Initialization Protocol (SIP) (Bearden et al. paragraph 0043).

Claim 9 is rejected similar to claim 1.

Examiner's Note:

9. Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may

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apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Allowable Subject Matter

10. Claims 7, 8, 17 and 18 are allowed.
11. Claims 3, 6, 11 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory

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action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAN YUEN whose telephone number is (571)270-1413. The examiner can normally be reached on Monday-Friday 10:00a.m-3:00p.m EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky O. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kan Yuen/
Examiner, Art Unit 2416

/Ricky Ngo/
Supervisory Patent Examiner, Art
Unit 2416

KY